



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 - 2733

AUG 31 2015

The Honorable Lawrence Montoya
Governor
Pueblo of Santa Ana
2 Dove Road
Bernalillo, NM 87004

Dear Governor Armijo:

The Environmental Protection Agency (EPA) has completed its review of the *Pueblo of Santa Ana Water Quality Standards*. These standards were adopted by the Pueblo of Santa Ana on November 26, 2013, and submitted to the EPA for approval in December 2013. The submittal package included a statement dated December 6, 2013, from the Tribal Attorney, certifying that the standards were duly adopted pursuant to Pueblo law.

I am pleased to inform you that the EPA is approving most of the provisions in the standards, pursuant to §303(c) of the Clean Water Act (CWA) and the implementing regulation at 40 CFR Part 131, as documented in the enclosure. EPA's approval of the standards is applicable to waters included in the agency's recent approval of the Pueblo of Santa Ana's request for treatment in a similar manner as a state to administer the CWA §303(c) and §401 programs.

Section 7(a)(2) of the Endangered Species Act (ESA) requires that federal agencies, in consultation with the U.S. Fish and Wildlife Service, ensure that their actions are not likely to jeopardize the existence of federally listed species or result in the adverse modification of designated critical habitat of such species. As noted in Part I of the enclosure, EPA is approving specific provisions in Sections I, III, IV and V and in Appendices A and B, subject to the outcome of consultation under §7(a)(2) of the ESA. Although consultation has not been completed as of today, EPA's approval is fully consistent with ESA §7(d) and the agency retains the full range of options available under CWA §303(c), including the discretion to revise its approval decision based on new or additional information developed in consultation.

The Agency considers specific items under Section I, Section III, Section V and Section VI of the *Pueblo of Santa Ana Water Quality Standards* to be assessment or implementation provisions, rather than elements of water quality standards under CWA §303(c). Part II of the enclosure summarizes these provisions, which do not require EPA review under CWA §303(c). EPA also takes no action on the definition for "Waters of the Pueblo" in Section VII, as it applies to waters beyond the scope covered by the CWA.

EPA thanks the Pueblo of Santa Ana for its efforts to establish the *Pueblo of Santa Ana Water Quality Standards*. We recognize the significant work by the Department of Natural Resources in developing the standards and look forward to working with your staff on continued implementation of the water quality program. If you have any questions or concerns, please contact me at (214) 665-7101 or have your staff contact Diane Evans at (214) 665-6677.

Sincerely,

A handwritten signature in blue ink, appearing to read "WK Honker", is written over a horizontal line.

William K. Honker, P.E.
Director
Water Quality Protection Division

Enclosure

cc: Alan Hatch, Director, Pueblo of Santa Ana - Department of Natural Resources

EPA Review of the 2013 *Pueblo of Santa Ana Water Quality Standards* (August 2015)

The Environmental Protection Agency's (EPA) action addresses the *Pueblo of Santa Ana Water Quality Standards*, which were adopted by the Pueblo of Santa Ana on November 26, 2013, and submitted to the EPA for review in December 2013. EPA has completed its review of the *Pueblo of Santa Ana Water Quality Standards* and has determined that the standards:

- include designated uses consistent with Clean Water Act (CWA) §101(a)(2) and §303(c) for all surface waters
- contain narrative and numeric criteria protective of those designated uses;
- include an antidegradation policy consistent with 40 CFR §131.12;
- include adequate documentation of methods and analyses used in developing the standards; and
- were duly adopted pursuant to applicable legal procedures as certified by the Tribal Attorney.

This enclosure provides a summary of the *Pueblo of Santa Ana Water Quality Standards* and the action taken by EPA.

I. PROVISIONS THAT EPA APPROVES

Part I of this enclosure includes revisions that are approved for purposes of CWA §303(c). Specific provisions are approved subject to the outcome of consultation under the Endangered Species Act (ESA), but are effective under CWA §303(c). These provisions include items in Section I, Section III, Section IV, Section V, Appendix A and Appendix B, as noted under each section. EPA has concluded that approval of other provisions will have no effect on federally-listed species or critical habitat, or are otherwise not subject to ESA consultation.

Section I. Introduction, Authority, and Applicability

Section I includes narrative provisions which identify the Pueblo of Santa Ana's authority to adopt and implement water quality standards; discuss the applicability and modification of the standards; and, establish procedures for implementation of the standards. Part A states that the Pueblo of Santa Ana is exercising its authority to adopt and enact the water quality standards and also identifies the purpose of the water quality standards. Part B discusses the applicability of the standards to all surface waters within the exterior boundaries of the reservation. Part C states that the standards are consistent with the goals of CWA §101(a)(2) which provide for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water.

Part D states that wetlands, other than those constructed for waste treatment, are considered surface waters of the Pueblo of Santa Ana. Part D also includes narrative provisions to prohibit impacts to wetlands, with consideration of the natural variability of conditions in wetlands. Part E references the antidegradation policy and implementation procedures in Section II of the standards. Part F states that the Pueblo of Santa Ana will conduct triennial revisions of the standards to incorporate new information.

Part H states that designated uses shall be protected during periods of low flow and that the most stringent standard necessary to protect all uses applies to a Pueblo water with more than one existing, attainable or designated use. Part H also includes a critical design flow of 4Q3 for the implementation of numeric criteria. Part I includes a provision for implementation of human health criteria through the harmonic mean flow, with a modified formula for calculation of critical flow in ephemeral water

Part J states that the standards will be used to manage discharges from both point and nonpoint sources of pollution. Part K references procedures for modifying the standards where it has been determined that attainable water quality is lower than the applicable standard. Part L states that the Tribal Council has exclusive authority to adopt and modify the standards.

Part M states that if any provision of the standards is held to be invalid to a person or circumstance, the remaining provisions in the standards and the application of the provision to other persons and circumstances are not affected. Part N allows a compliance schedule to be included in a National Pollutant Discharge Elimination System (NPDES) permit, provided that compliance with the standard be met at the earliest practicable time.

Part O contains a provision for granting short-term exceedances from the water quality standards for temporary actions, where necessary and which will result in the enhancement or maintenance of uses. Part O also states that Tribal and federal permitting requirements may not be superseded by a short-term exceedance. Part P includes a goal to protect waters in the most natural condition. Part P specifies that Tribal efforts will be consistent with the goal to preserve, protect and restore aquatic and wildlife communities.

EPA approves Part D. Wetlands, Part H. Applicability of Uses and Part O. Short-term Exceedances, subject to the outcome of consultation under §7(a)(2) of the ESA. Please see Part II of this enclosure regarding Part G. Water Rights.

Section II. Antidegradation Policy and Implementation Plan

The antidegradation policy under Part A contains provisions to maintain and protect existing uses and water quality; protect high quality waters; and, maintain and protect waters of exceptional recreational, cultural or ecological significance which may be designated as an Outstanding Tribal Resource Water. The antidegradation policy requires that prior to allowing a lower level of water quality in high quality waters, the following actions will occur: an opportunity for public comment has been provided; assurance that regulatory requirements for point sources and best management practices for nonpoint sources have been implemented; and, the need for economic or social development has been documented. The antidegradation policy also states that implementation methods consistent with CWA §316 will be used where there may be potential impacts from thermal discharges.

Under Part B, the Department of Natural Resources is designated by the Tribal Council to implement the water quality standards. The Implementation Plan outlines activities that the Department of Natural Resources will use to implement the water quality standards. These activities include: monitoring and assessment of waters; review of draft permits; issuance of §401 certifications; coordination with local, state and federal agencies; implementation of inspection programs; evaluation of current wastewater systems; encouraging the implementation of best management practices; evaluation of instream flow; assessment of surface and groundwater withdrawals; implementation of public participation provisions; and, technical support on water quality issues as requested by the Tribal administration..

Section III. General Standards

The provisions in Section III apply to all surface waters of the Pueblo of Santa Ana. Parts A – G contain narrative standards (“free from”) to protect surface waters from substances or contaminants that: settle and may affect aquatic biota; float as objectionable oils, scum, foam, grease or other suspended materials; produce objectionable color, odor or taste in water or interfere with production of drinking water supplies; cause objectionable taste in fish; produce nuisance conditions that promote algal growth; are pathogenic

or, result in turbidity that reduces light transmission or alters color or visibility. Parts B, C, E and G include numeric standards for oil and grease, color, nutrients and turbidity, respectively.

Part H includes a provision to limit mixing zones by cross-sectional area or by flow volume, with the requirement to maintain a zone of passage for migration of aquatic life. Mixing zones are not allowed in lakes nor at locations or recreational or ceremonial use. Part I includes narrative and numeric criteria for radioactive substances. Part J includes narrative and numeric provisions for temperature to protect aquatic life. Part L includes narrative and numeric provisions for minerals, including numeric criteria for chlorides, sulfates and total dissolved solids to protect the domestic water supply use. Part L includes a narrative criterion for pH. Part M includes a dissolved oxygen criterion of 5.0 mg/L for surface waters where aquatic life exists and a provision for lower criteria where natural conditions exist. Part N includes a narrative provision for to prohibit supersaturation of dissolved gasses.

Part O contains a narrative criterion precluding toxic substances in concentrations that are harmful to human, animal, plant or aquatic life. An allowance for chronic toxicity within a mixing zone is included, however, no acute toxicity is allowed in surface waters. Part O references the numeric criteria in Appendix A and Appendix B. Part O also includes technical references for assessing the narrative criteria for toxic materials and procedures to calculate numeric aquatic life criteria where the EPA has not published a Clean Water Act §304(a) recommendation. These procedures may include EPA's aquatic life guidelines and the AQUIRE (Aquatic Toxicity Information Retrieval) database or other aquatic toxicity data. Persistent or bioaccumulative toxicants may be addressed on a case-by-case basis.

Part P includes a narrative statement for protection of the biological integrity of waters with aquatic life uses. The provision states that assessment of biological integrity will be conducted with multi-metric indices of benthic macro-invertebrates, fish, or periphyton, as compared with conditions in reference or "least-impacted" waters. Part Q includes a narrative criterion for sediment quality, which states that sediment shall not be contaminated by man at levels that are toxic to aquatic biota, livestock, wildlife, or man, or interfere with the propagation, growth, or survival of existing aquatic biota.

EPA approves the following provisions in Section III, subject to the outcome of consultation under §7(a)(2) of the ESA: Part A. Stream Bottom Deposits, Part B. Floating Solids, Oil and Grease, Part E. Nuisance Conditions, Part G. Turbidity, Part H. Mixing Zones, Part J. Temperature, Part K. Minerals, Part L. pH, Part M. Dissolved Oxygen, Part N. Nitrogen and Other Dissolved Gasses, Part O. Toxic Substances, Part P. Biocriteria and Part Q. Sediment Quality (narrative statement). Please see Part II of this enclosure regarding the numeric guidelines in Part Q. Sediment Quality.

Section IV. Water Body Uses and Standards Specific to the Uses

Section IV includes the following designated uses for the Pueblo of Santa Ana's surface waters: Coolwater Aquatic Life/Fishery Use, Warmwater Aquatic Life/Fishery Use, Primary Contact Ceremonial Use, Primary Contact Recreational Use, Domestic Water Supply Use, Agricultural Water Supply Use, and Wildlife Habitat Use.

Numeric criteria to support each use are also included in Section IV, along with references to the criteria for toxic materials in Appendix A and Appendix B. The Pueblo of Santa Ana adopted criteria for dissolved oxygen, temperature and pH to protect the Coolwater Aquatic Life/Fishery Use and the Warmwater Aquatic Life/Fishery Use. Numeric criteria for *Escherichia coli* (E. coli) and pH, along with a narrative criterion for nuisance conditions, were adopted to protect the Primary Contact Ceremonial Use and the Primary Contact Recreational Use. The Domestic Water Supply Use includes a pH range to support the use. The Agricultural Water Supply Use includes protection of livestock and irrigation, with numeric criteria for boron, cobalt, lithium, molybdenum and vanadium. A narrative criterion is included

under Part G to protect the Wildlife Habitat Use. Section IV also includes a table identifying designated uses for specific waters bodies.

EPA approves Part A. Coolwater Aquatic Life/Fishery Use, Part B. Warmwater Aquatic Life/Fishery Use and Part G. Wildlife Habitat Use, and the criteria under these uses, subject to the outcome of consultation under §7(a)(2) of the ESA.

Section V. Uses and Selected Standards for Designated Water Bodies

In Section V, designated uses are assigned to the surface waters of the Pueblo of Santa Ana as follows:

Rio Jemez (four reaches)

Coolwater Aquatic Life/Fishery Use	Domestic Water Supply Use
Warmwater Aquatic Life/Fishery use	Agricultural Water Supply Use
Primary Contact Ceremonial Use	Wildlife Habitat Use
Primary Contact Recreational Use	

Rio Grande (three reaches)

Coolwater Aquatic Life/Fishery Use	Domestic Water Supply Use
Warmwater Aquatic Life/Fishery Use	Agricultural Water Supply Use
Primary Contact Ceremonial Use	Wildlife Habitat Use
Primary Contact Recreational Use	

Middle Rio Grande Conservancy District Albuquerque Main Canal

Warmwater Aquatic Life/Fishery Use	Agricultural Water Supply Use
Primary Contact Recreational Use	Wildlife Habitat Use

Riverside Drain

Coolwater Aquatic Life/Fishery Use	Agricultural Water Supply Use
Warmwater Aquatic Life/Fishery Use	Wildlife Habitat Use
Primary Contact Recreational Use	

Ponds

Warmwater Aquatic Life/Fishery Use	Agricultural Water Supply Use
Primary Contact Ceremonial Use	Wildlife Habitat Use
Primary Contact Recreational Use	

Arroyos/Ephemeral Streams/Springs

Warmwater Aquatic Life/Fishery Use	Domestic Water Supply Use
Primary Contact Ceremonial Use	Agricultural Water Supply Use
Primary Contact Recreational Use	Wildlife Habitat Use

EPA approves the designations of the Coolwater Aquatic Life/Fishery Use, the Warmwater Aquatic Life/Fishery Use and the Wildlife Habitat Use, subject to the outcome of consultation under ESA §7(a)(2). Please see Part II of this enclosure regarding the Beach Action Values adopted in Section V.

Section VI. Sampling and Analyses

Part B contains the duration and frequency components of the bacteriological criteria (*E. coli*) to protect the Primary contact ceremonial use and the Primary contact recreational use.

Section VII. Definitions

Under Section VII, definitions for the following terms provide additional technical guidance for implementation of the *Pueblo of Santa Ana Water Quality Standards*.

Acute toxicity	Effluent	pH
Agricultural water supply use	Ephemeral stream	Picocurie
Algae	Epilimnion	Point source
Antidegradation	<i>Escherichia coli</i>	Primary contact ceremonial use
Aquatic biota	Eutrophication	Primary contact recreational use
Arroyo	Existing uses	Secondary contact recreational use
Attainable use	Fecal coliform	Segment
Best Available Technology	Fishery	Spring
Best management practices	Geometric mean	Statistical Threshold Value (STV)
Bioaccumulate	Indigenous	Surface waters of the
Bioconcentrate	Intermittent stream	Pueblo of Santa Ana
Biomagnify	MCL	Thermal stratification
CASRN	Milligrams per liter (mg/l)	Toxicity
Carcinogenic	Mixing zone	Turbidity
Chronic toxicity	Narrative standard	Use-attainability analysis
Clean Water Act	National Pollutant Discharge	Warmwater aquatic life/fishery
Color	Elimination System	Water contaminant
Coolwater aquatic life/fishery	Natural background/natural condition	Water Resources of the Pueblo*
Criterion Continuous	Non-point source	Wetlands
Concentration	NTU	Wildlife habitat
Criterion Maximum	Nuisance conditions	Zone of passage
Concentration	Nutrient	
Cumulative	Organoleptic	
Designated uses	Pathogens	
Dissolved oxygen	Perennial stream	
Domestic water supply	Persistent	

* Please see Part II of this enclosure regarding the definition of Water Resources of the Pueblo

Appendix A. Water Quality Criteria for Toxic Substances

Table A-1 includes criteria to protect aquatic life for the following substances:

Acrolein	Cyanide	Malathion
Aldrin	4,4'-DDT	Mercury
Aluminum	Demeton	Methoxychlor
Arsenic	Diazinon	Mirex
Barium	Dieldrin	Nickel
Beryllium	Endosulfan, alpha	Nonylphenol
Cadmium	Endosulfan, beta	Parathion
Carbaryl	Endrin	Polychlorinated biphenyls
Chlordane	Guthion	Pentachlorophenol
Chlorine residual	Heptachlor	Selenium
Chlorpyrifos	Heptachlor epoxide	Silver
Chromium (III)	gamma-BHC (Lindane)	Sulfide-hydrogen sulfide
Chromium (IV)	Iron	Toxaphene
Copper	Lead	Zinc

EPA approves the aquatic life criteria, subject to the outcome of consultation under §7(a)(2) of the ESA.

Table A-2 includes criteria to protect human health through the consumption of fish and water for the following substances:

Acenaphthene	1,2-Dichloropropane	N-Nitrosodimethylamine
Acrolein	1,3-Dichloropropene	N-Nitrosodi-n-propylamine
Acrylonitrile	Dieldrin	N- Nitrosodiphenylamine
Aldrin	Diethyl phthalate	N-Nitrosopyrrolidine
Antimony	2,4-Dimethyl phenol	Polychlorinated biphenyls
Arsenic	Dimethyl phthalate	Pentachlorobenzene
Barium	2,4 Dinitrotoluene	Pentachlorophenol
Benzene	2,4 Dinitrophenol	Phenol
Benzidine	2-Methyl-4,6-Dinitrophenol	Polynuclear aromatic
Beryllium	Dioxin (2,3,7,8-TCDD)	hydrocarbons including:
Butyl benzyl phthalate	1,2-Diphenylhydrazine	- Anthracene
Cadmium	Bis 2-Ethylhexylphthalate	- Benzo(a)anthracene
Carbon tetrachloride	Endosulfan, alpha	- Benzo(a)pyrene
Chlordane	Endosulfan, beta	- Benzo(b)fluoranthene
Chlorobenzene	Endosulfan, sulfate	- Benzo(ghi)perylene
2-Chloronaphthalene	Endrin	- Benzo(k)fluoranthene
Bis (2-Chloroethyl) ether	Endrin aldehyde	- 4-Bromophenyl phenyl
Bis (2-Chloroisopropyl) ether	Ethylbenzene	ether
Bis (Chloromethyl) ether	Fluoranthene	- Chrysene
2-Chlorophenol	Fluoride	- Dibenzo(a,h)anthracene
3-Chlorophenol	Heptachlor	- Fluorene
4-Chlorophenol	Heptachlor epoxide	- Indeno 1,2,3-cd pyrene
2-methyl-4-chlorophenol	Hexachloroethane	- Phenanthrene
3-methyl-4-chlorophenol	Hexachlorobenzene	- Pyrene
3-methyl-6-chlorophenol	Hexachlorobutadiene	Selenium
Chromium (III)	alpha-BHC	Tetrachlorobenzene 1,2,4,5
Chromium (VI)	(hexachlorocyclohexane-	1,1,2,2-Tetrachloroethane
Copper	alpha)	Tetrachloroethylene
Cyanide	beta-BHC	2,3,4,6-Tetrachlorophenol
4,4'-DDT	(hexachlorocyclohexane-	Thallium
4,4'-DDE	beta)	Toluene
4,4'-DDD	gamma-BHC (Lindane)	Toxaphene
Di-n-Butylphthalate	Hexachlorocyclopentadiene	1,2,4-Trichlorobenzene
1,2-Dichlorobenzene	Isophorone	1,1,1-Trichloroethane
1,3-Dichlorobenzene	Lead	1,1,2-Trichloroethane
1,4-Dichlorobenzene	Manganese	Trichloroethylene
3,3-Dichlorobenzidine	Methylmercury (fish tissue)	2,4,5-Trichlorophenol
1,2-Dichloroethane	Methyl bromide	2,4,6-Trichlorophenol
1,1-Dichloroethylene	Methylene chloride	2-(2,4,5-Trichlorophenoxy)
1,2-Trans-Dichloroethylene	Methoxychlor	Propionic Acid (Silvex)
2,3-Dichlorophenol	Naphthalene	Total Trihalomethanes.
2,4-Dichlorophenol	Nickel	- Dichlorobromomethane
2,5-Dichlorophenol	Nitrate	- Bromoform
2,6-Dichlorophenol	Nitrobenzene	- Chloroform
3,4-Dichlorophenol	Nitrosamines	- Chlorodibromomethane
2,4-Dichlorophenoxyacetic	Nitrosodibutylamine N	Vinyl Chloride
acid (2,4 D)	Nitrosodiethylamine N	Zinc

Appendix B. Ammonia Criteria Temperature and pH-Dependent Values for Chronic and Acute Criteria

Ammonia criteria based on EPA's current criteria recommendations published under CWA §304(a) were adopted to protect aquatic life. EPA approves these criteria, subject to the outcome of consultation under §7(a)(2) of the ESA.

II. PROVISIONS THAT DO NOT REQUIRE ACTION BY EPA UNDER CWA §303(c)

Several provisions were adopted in the *Pueblo of Santa Ana Water Quality Standards* that EPA does not consider to be water quality standards under CWA. EPA is not taking action on these provisions because they are not (1) legally binding provisions adopted or established pursuant to Tribal law that (2) address designated uses, criteria, or antidegradation, and (3) describe the desired condition or level of protection of the water body.

Section I. Introduction, Authority, and Applicability

EPA takes no action on the provision at Part G. Water Rights, as the agency generally does not act on provisions addressing water quantity.

Section III. General Standards

EPA takes no action on the sediment quality guidelines for ten parameters included under Part Q. Sediment Quality. These guidelines may be used in the Pueblo of Santa Ana's monitoring and assessment program, but are not intended as numeric criteria in regulatory programs.

Section V. Uses and Selected Standards for Designated Water Bodies

EPA takes no action on the Beach Action Values adopted for each water body under Section V. In the Response to Comments on the proposed standards, the Pueblo of Santa Ana noted that it will use these values to communicate the risks associated with potential bacteriological contamination of the Pueblo's waters.

Section VI. Sampling and Analyses

EPA takes no action on Part A. Sample Collection, Preservation, and Analysis and Part C. Sampling Procedures of Section VI, which include technical references and general guidelines for the Pueblo of Santa Ana's water quality monitoring program.

Section VII. Definitions

EPA takes no action on the definition for "Waters Resources of the Pueblo" in Section VII, as it applies to waters beyond the scope covered under the CWA.